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Report

National Brucellosis Technical Commission

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Appendix E

Questionnaire of 50 State Veterinarians

Prepared For

U. S. Animal and Plant Health Inspection Service

and

United States Animal Health Association

August 28, 1978

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U. S. ANIMAL HEALTH ASSOCIATION  
Committee on Brucellosis  
Request for Information

TO:

I. Information On Present Brucellosis Program.

Your assistance in providing data and information as requested will be appreciated.

- A. To assist us in compiling a file of each state's legal authority to carry out brucellosis control and eradication programs, please enclose, if they are readily available, the following:
1. One copy of those parts of state laws and enabling legislation which govern your state brucellosis control and eradication program.
  2. One copy of those parts of state rules and regulations which govern your state brucellosis control and eradication program.
  3. One copy of enforcement policy guidelines (if your agency uses these).
- B. Do your state laws and regulations provide the legal authority to fully apply the USDA Uniform Methods and Rules (UM&R) (APHIS-91-1 as amended September 10, 1976)?
1. YES \_\_\_\_\_ NO \_\_\_\_\_ (If "NO" - please explain below)

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2. If the answer is "NO", do you think this lack of legal authority has adversely affected the brucellosis eradication program in your state?
- YES \_\_\_\_\_ NO \_\_\_\_\_ (Please explain below; use additional page if necessary)

- I. B. 1. Do your state laws and regulations provide the legal authority to fully apply the USDA Uniform Methods and Rules (UM&R) (APHIS-91-1 as amended September 10, 1976)? YES 40 NO 3

LEGEND:

Y - Yes; N - No; Yn - Yes with a note; Nn - No with a note

NORTHERN REGION

<u>Area 1</u>	<u>Area 2</u>	<u>Area 3</u>	<u>Area 4</u>	<u>Area 5</u>	<u>Area 6</u>
CT-Y	NJ-Y	DE-Y	MI-Yn	IL-Y	MN-Y
ME-Y	NY-Y	MD-Y	OH-Y	IN-Y	WI-Y
MA-Y	PA-Y	VA-Y			
NH-Y		WV-Y			
RI-No Response					
VT-Y					

No - 0

Yes - 18 (Yn: MI-Has new legislation lowering calfhood vaccination to two months and new requirement for tests on vaccinates over 20 months.)  
95% of possible; 100% of actual response

No Response - 1

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SOUTHEAST REGION

<u>Area 7</u>	<u>Area 8</u>	<u>Area 9</u>	<u>Area 10</u>
KY-Y	AL-No Response	GA-Y	FL-Y
TN-Y	MS-No Response	NC-Y	
		SC-Y	

No - 0

Yes - 6 75% of possible; 100% of actual response

No Response - 2

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SOUTH CENTRAL REGION

<u>Area 11</u>	<u>Area 12</u>	<u>Area 13</u>
AR-No Response	NM-Y	Screwworm Tx
LA-No Response	TX-Nn	
OK-Y		

No - 1 (Nn: TX-September 10, 1976 UM&R changes not yet adopted.)  
20% of possible; 33% of actual response



I. B. 1. Continued

SOUTH CENTRAL REGION (cont.)

Yes - 2 40% of possible; 67% of actual response

No Response - 2

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NORTH CENTRAL REGION

<u>Area 14</u>	<u>Area 15</u>	<u>Area 16</u>	<u>Area 17</u>
MT-Y	CO-Y	KS-Y	IA-Nn
ND-Y	UT-Y	NE-Yn	MO-Y
SD-No Response	WY-Nn		

No - 2 (Nn: IA-"Present law requires test of vaccinated animals after 30 months of age."  
WY-No Dealer Law possible.)  
22.2% of possible; 20% of actual response

Yes - 7 (Yn: NE-No eartagging; no tattoo of purebred heifers OCV.)  
70% of possible; 78% of actual response

No Response - 1

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WESTERN REGION

<u>Area 18</u>	<u>Area 19</u>
AZ-Y	AK-No Response
CA-Y	ID-Y
HI-Y	OR-Y
NV-Y	WA-Y

No - 0

Yes - 7 88% of possible; 100% of actual response

No Response - 1

- I. B. 2. If the answer is "NO", do you think this lack of legal authority has adversely affected the brucellosis eradication program in your state?  
YES \_\_\_\_\_ NO \_\_\_\_\_ (Please explain below; use additional page if necessary)

LEGEND:

Y - Yes; N - No; N/A - Not applicable

NORTHERN REGION

<u>Area 1</u>	<u>Area 2</u>	<u>Area 3</u>	<u>Area 4</u>	<u>Area 5</u>	<u>Area 6</u>
CT-N/A	NJ-N/A	DE-N/A	MI-N/A	IL-N/A	MN-N/A
ME-N/A	NY-N/A	MD-N/A	OH-N/A	IN-N/A	WI-N/A
MA-N/A	PA-N/A	VA-N/A			
NH-N/A		WV-No Response			
RI-No Response					
VT-N/A					

Not Applicable - 17: 90% of possible; 100% of actual response

No Response - 2

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SOUTHEAST REGION

<u>Area 7</u>	<u>Area 8</u>	<u>Area 9</u>	<u>Area 10</u>
KY-N/A	AL-No Response	GA-N/A	FL-N/A
TN-N/A	MS-No Response	NC-N/A	
		SC-N/A	

Not Applicable - 8: 80% of possible; 100% of actual response

No Response - 2

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SOUTH CENTRAL REGION

<u>Area 11</u>	<u>Area 12</u>	<u>Area 13</u>
AR-No Response	NM-N/A	Screwworm TX
LA-No Response	TX-N	
OK-N/A		

No - 1 20% of possible; 33% of actual response

Not Applicable - 2: 40% of possible; 67% of actual response

No Response - 2



I. B. 2. Continued

NORTH CENTRAL REGION

<u>Area 14</u>	<u>Area 15</u>	<u>Area 16</u>	<u>Area 17</u>
MT-N/A	CO-N/A	KS-N/A	IA-N
ND-N/A	UT-N/A	NE-N/A	MO-N/A
SD-No Response	WY-N		

No - 2 20% of possible; 20% of actual response  
Not Applicable - 7 70% of possible; 80% of actual response  
No Response - 1

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WESTERN REGION

<u>Area 18</u>	<u>Area 19</u>
AZ-N/A	AK-N/A
CA-N/A	ID-N/A
HI-N/A	OR-N/A
NV-N/A	WA-N/A

Not Applicable - 8 100% of possible; 100% of actual response

STATE

- C. Do you have any special policies for neighboring states or other regional areas of the country that are more strict or less strict than UM&R? If yes, please give details below.

- D. Do you have a State Advisory Committee on Brucellosis or its equivalent?

YES \_\_\_\_\_ NO \_\_\_\_\_

I. C. Do you have any special policies for neighboring states or other regional areas of the country that are more strict or less strict than UM&R? If yes, please give details below.

Number of possible responses: 50.  
Number of actual responses: 41; 28 YES; 13 NO.  
Number of substantive responses: 28; 56% of possible response; 68% of actual responses.

NORTHERN REGION - 19 states

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*****
*
* No Response: 3
* NO: 6 53% Substantive (yes) response
* YES: 10 84% possible response
*
*****
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<u>Area 1</u>	<u>Area 2</u>	<u>Area 3</u>	<u>Area 4</u>	<u>Area 5</u>	<u>Area 6</u>
CT-No Response	NJ-No	DE-No	MI-No	IL-Yes	MN-Yes
ME-Yes	NY-Yes	MD-Yes	OH-Yes	IN-No	WI-Yes
MA-No	PA-Yes	VA-Yes			
NH-No		WV-No Response			
RI-No Response					
VT-Yes					

Substantive answers -  
9 states have special policies for import cattle  
Pennsylvania and Wisconsin do not allow reactor cattle into their states  
all 9 states place extra tests and regulations on cattle coming from noncertified (mod/free) areas and Hi.I. areas

SOUTHEAST REGION - 8 states (2 U.S. holdings not included)

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*****
*
* No response: 2
* NO: 3 38% Substantive (yes) response
* YES: 3 75% possible response
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I. C. (Continued)

SOUTHEAST REGION (cont.)

<u>Area 7</u>	<u>Area 8</u>	<u>Area 9</u>	<u>Area 10</u>
KY-Yes	AL-No Response	GA-Yes	FL-No
TN-Yes	MS-No Response	NC-No	(PR & VI not in-
		SC-No	cluded in % tally)

Substantive answers -

qualified herd status + 30 day test; two 30 day tests in noncertified counties; quarantine and retest of cattle except from free states/accelerated program - TN  
 test all imports, including certified free states - TN  
 permit, quarantine and retest all Texas cattle - KY  
 retest all imports excepting: OV under age, certified herds, qualified herds + 30 day test of imported individuals - GA

SOUTH CENTRAL REGION - 5 states

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*****
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* No Response: 2
* NO: 2
* YES: 1
*
*
*****
  
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20% substantive (yes) response  
 60% possible response

<u>Area 11</u>	<u>Area 12</u>	<u>Area 13</u>
AR-No Response	NM-Yes	Screwworm N/A
LA-No Response	TX-No	
OK-No		

Substantive answers -

extra import regulations on all Texas import cattle; import cattle tested at 8 months, not 24 months of age - NM

NORTH CENTRAL REGION - 10 states

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*****
*
* No Response: 1
* NO: 1
* YES: 8
*
*
*****
  
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80% substantive (yes) response  
 90% possible response

I. C. (Continued)

NORTH CENTRAL REGION (cont.)

<u>Area 14</u>	<u>Area 15</u>	<u>Area 16</u>	<u>Area 17</u>
MT-Yes	CO-Yes	KS-Yes	IA-Yes
ND-Yes	UT-No	NE-Yes	MO-Yes
SD-No Response	WY-Yes		

Substantive answers -

states requiring additional testing on imports from less than certified free areas/states: Wyoming, Nebraska, Iowa, (Hi.I.), Montana, Kansas

North Dakota requires calfhood vaccination on all females over 10 months of age; negative test on OV 2 years or older

Colorado has a 30 day test of females and bulls

WESTERN REGION - 8 states

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*****
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** No Response: 1
** NO: 1
** YES: 6
**
**
*****

```

75% substantive (yes) response  
88% possible response

Area 18

AZ-Yes  
CA-Yes  
HI-Yes  
NV-No

Area 19

AK-No Response  
ID-Yes  
OR-Yes  
WA-Yes

Substantive answers -

has own rules of importation; does not recognize Mod./Free status - OR  
retest after arrival - CA, WA, AZ  
all eligible imports and change of ownership cattle must have negative test - ID

68% of actual responses indicated laws more strict than UM&R. Of these, the

Northern Region gave	53% more strict	
Southeast Region	38% more strict	
South Central Region	20% more strict	
North Central Region	80% more strict	
Western Region	75% more strict	(% of total possible states in each region)

Northern Region	63% more strict	
Southeast Region	50% more strict	
South Central Region	33% more strict	
North Central Region	89% more strict	
Western Region	86% more strict	(% of actual replies in each region)

I. D. Do you have a state Advisory Committee on Brucellosis or its equivalent?  
 YES 18 NO 25

LEGEND:

Y - Yes; N - No; Yn - Yes with a note; Nn - No with a note

NORTHERN REGION

<u>Area 1</u>	<u>Area 2</u>	<u>Area 3</u>	<u>Area 4</u>	<u>Area 5</u>	<u>Area 6</u>
CT-N	NJ-N	DE-N	MI-N	IL-Y	MN-Yn
ME-Y	NY-N	MD-Y	OH-N	IN-Y	WI-Y
MA-Yn	PA-Nn	VA-Y			
NH-N		WV-No Response			
RI-No Response					
VT-Y					

No - 8 (Nn: PA-"Advisory groups were appointed in the 1940s for each county; veterinarians and Agricultural Extension Agents were a part of each group.")  
 42% of possible; 47% of actual response

Yes - 9 (Yn: MA-A State Advisory Committee is being formed.  
 MN-The swine State Advisory Committee is active; the bovine SAC has been phased out.)  
 47% of possible; 53% of actual response

No Response - 2

SOUTHEAST REGION

<u>Area 7</u>	<u>Area 8</u>	<u>Area 9</u>	<u>Area 10</u>
KY-Yn	AL-No Response	GA-N	FL-Y
TN-Nn	MS-No Response	NC-N	
		SC-N	

No - 4 (Nn: TN-They rely on a regular liaison with the leadership of the major producer organizations.)  
 50% of possible; 67% of actual response

Yes - 2 (Yn: KY-They rely on the Farm Bureau Livestock Committee and the KVMA Regulatory Committee.)  
 25% of possible; 33% of actual response

No Response - 2

SOUTH CENTRAL REGION

<u>Area 11</u>	<u>Area 12</u>	<u>Area 13</u>
AR-No Response	NM-Nn	Screwworm TX
LA-No Response	TX-Y	
OK-Yn		



I. D. Continued

SOUTH CENTRAL REGION (cont.)

No - 1 (Nn: NM-The board meets with the New Mexico Cattle Growers Association's Theft & Health Committee.)  
20% of possible; 33% of actual response

Yes - 2 (Yn: OK-The committee is nonfunctional.)  
40% of possible; 67% of actual response

No Response - 2

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NORTH CENTRAL REGION

<u>Area 14</u>	<u>Area 15</u>	<u>Area 16</u>	<u>Area 17</u>
MT-Nn	CO-Nn	KS-N	IA-N
ND-N	UT-N	NE-Y	MO-Y
SD-No Response	WY-Nn		

No - 7 (Nn: MT-They consult the seven member Board of Livestock Industry appointed by the governor.  
CO-They consult the industry and the Agriculture Commission.  
WY-They consult the Wyoming Livestock Board.)  
70% of possible; 78% of actual response

Yes - 2 20% of possible; 22% of actual response

No Response - 1

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WESTERN REGION

<u>Area 18</u>	<u>Area 19</u>
AZ-Nn	AK-N
CA-Y	ID-Yn
HI-N	OR-Y
NV-N	WA-N

No - 5 (Nn: AZ-Discontinued when state became certified free May 29, 1969.)  
62% of possible; 62% of actual response

Yes - 3 (Yn: ID-They consult the Disease Control Committee of the Idaho Cattlemen's Association and the Idaho Dairy Association.)  
38% of possible; 38% of actual response

- E. The U. S. UM&R may be considered not suitable in their entirety to meet the needs of some states by livestock owners or state officials. Assume for the purpose of evaluation of present programs that the national goal continues to be eradication. How could the UM&R be designed to permit flexibility for states or regions to implement more appropriate programs under various cattle population conditions? What changes would you recommend? Please list your recommendations below; use additional pages appropriately identified if necessary.

E. The U. S. UM&R may be considered not suitable in their entirety to meet the needs of some states by livestock owners or state officials. Assume for the purpose of evaluation of present programs that the national goal continues to be eradication. How could the UM&R be designed to permit flexibility for states or regions to implement more appropriate programs under various cattle population conditions? What changes would you recommend? Please list your recommendations below; use additional pages appropriately identified if necessary.

Number of possible responses: 50.

Number of actual responses: 38; 76% actual response.

Number of substantive responses (accepting the assumption; making recommendations toward flexibility as requested): 19 (MF); 50% of actual response.

Number of responses opposed to further flexibility: 16 (Stay); 42% of actual response.

Number of responses opposed to present degree of flexibility: 3 (LF); 8% of actual response.

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NORTHERN REGION - 19 possible states' response

No Response: 5; 26% of possible response  
More Flexibility: 6; 32% of possible response; 43% of actual response  
Less Flexibility: 1; 5% of possible response; 7% of actual response  
Stay as is: 7; 37% of possible response; 50% of actual response

<u>Area 1</u>	<u>Area 2</u>	<u>Area 3</u>	<u>Area 4</u>	<u>Area 5</u>	<u>Area 6</u>
CT-No Response	NJ-Stay	DE-MF	MI-No Response	IL-Stay	MN-MF
ME-Stay	NY-Stay	MD-MF	OH-MF/LF	IN-LF	WI-Stay
MA-MF	PA-Stay	VA-Stay			
NH-No Response		WV-No Response			
RI-No Response					
VT-MF					

Substantive answers -

More Flexibility:

more testing personnel in severe outbreaks - MA  
more individual state control over programs - NJ  
vaccination at owners' expense - MN  
testing of suspicious herds at public expense - MN  
quarantines/testing requirements should be reversed for certified  
and modified free status - MD  
flexibility in release from quarantine desirable - MD  
flexibility in disposition of infected herds; test or depopulate,  
as feasible; use adult vaccination as permitted - OH

Less Flexibility:

enforce change of ownership testing - OH  
more first point of concentration and area testing in Hi.I. areas - OH  
lessen time for vaccination of OV calves - IN  
a two part UM&R: one part enforced minimum basic standards,  
one part standardized procedures that effect the  
program (e.g., vaccination, eartags) - WI



I. E. (Continued)

SOUTHEAST REGION - 8 possible states' responses

No Response:	3;	38% of possible response
More Flexibility:	1;	12% of possible response; 20% of actual response
Less Flexibility:	1;	12% of possible response; 20% of actual response
Stay as is:	3;	38% of possible response; 60% of actual response

<u>Area 7</u>	<u>Area 8</u>	<u>Area 9</u>	<u>Area 10</u>
KY-No Response	AL-No Response	GA-LF	FL-MF
TN-Stay	MS-No Response	NC-Stay	(PR
		SC-Stay	VI)

Substantive answers -

better rapport with industry, permitting them more input into  
state/nation wide programs - FL  
extensive state/federal participation in calfhood vaccination  
especially in ranching states - FL  
tighter restrictions on dealer purchasing in mod-free areas and  
reassembling cattle in free states - GA  
prompt movement of interstate shipping papers to state offices - GA

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SOUTH CENTRAL REGION - 5 possible states' responses

No Response:	2;	40% of possible response
More Flexibility:	3;	60% of possible response; 100% of actual response
Less Flexibility:	0;	0% of possible response; 0% of actual response
Stay as is:	0;	0% of possible response; 0% of actual response

<u>Area 11</u>	<u>Area 12</u>	<u>Area 13</u>
AR-No Response	NM-MF	Screwworm N/A
LA-No Response	TX-MF	
OK-MF		

Substantive answers -

Oklahoma, New Mexico and Texas all advocate a better method of testing  
range herds  
Texas articulates a six point program covering, in addition to the  
above: extended state veterinary authority, adult vaccination,  
indemnity, UM&R regarding maintenance of area status (v. TX form)  
interstate movement of AV cows after 24 months; problem of feeder  
(market) heifers of questionable age in states with wheat  
pastures - OK

I. E. (Continued)

NORTH CENTRAL REGION - 10 possible states' responses

No Response: 1; 10% of possible response  
More Flexibility: 3; 30% of possible response; 33% of actual response  
Less Flexibility: 1; 10% of possible response; 11% of actual response  
Stay as is: 5; 50% of possible response; 56% of actual response

<u>Area 14</u>	<u>Area 15</u>	<u>Area 16</u>	<u>Area 17</u>
MT-Stay	CO-Stay	KS-MF	IA-Stay
ND-MF	UT-MF	NE-Stay	MO-LF
SD-No Response	WY-Stay		

Substantive answers -

impose tougher program on non-cooperative states: Nebraska,  
Iowa, Colorado, Missouri (5 point essay)  
adoption of 10 year program would pose hardship to Montana  
(i.e., 90% successful traceback, 60 day retests, first point  
of concentration of slaughter cattle)  
ranch-to-ranch operation on border states - UT  
discontinue backtagging of all bulls - ND  
allow practical methods of handling "S" brand cattle - KS  
more flexibility needed with this cattle - KS  
each state its own quarantine feedlot to handle exposed feeders - KS  
reduce paper work (i.e., "proof of slaughter") - KS

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WESTERN REGION - 8 possible states' responses

No Response: 1; 12-1/2% of possible response  
More Flexibility: 6; 75% of possible response; 86% of actual response  
Less Flexibility: 0; 0% of possible response; 0% of actual response  
Stay as is: 1; 12-1/2% of possible response; 14% of actual response

Area 18

AZ-MF  
CA-MF  
HI-MF  
NV-MF

Area 19

AK-No Response  
ID-MF  
OR-MF  
WA-Stay

Substantive answers -

more flexibility regarding range herd testing - AZ, CA, NV  
consider adult vaccination in difficult areas or allow areas/regions  
to play by ear as circumstances warrant - HI, ID  
consider tracebacks to large quarantined feedlots successful - AZ

- F. In reviewing the role of the federal government, assuming eradication continues to be the goal, please list any administrative changes within USDA and in the cooperative State-Federal relationship, which you would recommend to more appropriately reach and maintain the present goal of eradication. Please list below; use additional pages appropriately identified if necessary.



1. F. In reviewing the role of the federal government, assuming eradication continues to be the goal, please list any administrative changes within USDA and in the cooperative State-Federal relationship, which you would recommend to more appropriately reach and maintain the present goal of eradication. Please list below; use additional pages appropriately identified if necessary.

Of 50 possible states, 10 gave no response and 3 stated no problem (NH, NY, MA). Of the 38 states remaining, 16 states addressed the problem of communication between Washington-Hyattsville and each state. These wanted to eliminate a portion of the chain of command between these two points: VT NJ OH IL KY TN NC SC FL TX MT WY NV OR ID VA.\*

- 2 states; 12.5% wanted to eliminate Area Office
- 6 states; 37.5% wanted to eliminate Area Office in favor of federal VIC in each state
- 2 states; 12.5% wanted to eliminate Area Office in favor of district VIC in each state
- 6 states; 37.5% wanted to eliminate a part of the chain of command not specified above

16 states; 100% of those addressing communication problem; 42% of those states responding with suggestions; 32% of possible states.

Of 50 possible states, 6 requested more federal money in a general statement: KY FL MT CO MO CA (for state organizations). 8 states asked federal support for Lo.I. states: PA OH MI IN WI TN ID. \*

Regarding personnel: 7 states of the 50 possible (38 actually responding) requested more state personnel via federal funding: CO FL GA KY NE NC WY. 2 states requested more personnel in Hi.I. areas: KS WA. 1 state requested less staff in Lo.I. areas: SC. 3 states requested more stable personnel in general: MD MN WA. 1 state requires more federal personnel in testing: DE \*

3 states requested that regulatory agencies focus more exclusively on animal health (rather than plant business or humane work): MN PA TN. \*

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#### NORTHERN REGION

<u>Area 1</u>	<u>Area 2</u>	<u>Area 3</u>	<u>Area 4</u>
CT-No Response	NJ-Federal VIC	DE- *	MI- *
ME- No Response	(st.)	MD- *	OH-State VIC
MA- No Problem	NY-No Problem	VA-District VIC	
NH-No Problem	PA- *	WV-No Response	
RI-No Response			
VT-Eliminate some of the federal chain of command			

I. F. (Continued)

NORTHERN REGION (cont.)

Area 5

IL-District VIC  
IN- \*

Area 6

MN- \*  
WI- \*

SOUTHEAST REGION

Area 7

KY-Eliminate some of  
the federal chain  
of command  
TN-Federal VIC (st.)

Area 8

AL-No Response  
MS-No Response

Area 9

GA- \*  
NC-No area office  
SC-No area office

Area 10

FL-Eliminate some of  
the federal chain  
of command  
(PR & VI)

SOUTH CENTRAL REGION

Area 11

AR-No Response  
LA-No Response  
OK- Problem -60/40  
ratio, more authority  
for district vet.

Area 12

NM- Problem-60/40 ratio  
TX-Federal VIC  
(st.)

Area 13

TX-Screwworm

NORTH CENTRAL REGION

Area 14

MT-Eliminate some of  
the federal chain  
of command  
ND-More power to VIC  
SD- No Response

Area 15

CO- \*  
UT-Epidem. i.c.  
WY-Federal VIC  
(st.)

Area 16

KS- \*  
NE-No regional  
office

Area 17

IA- Epidem. needed  
MO- Need balanced st/fed  
program

Epidem.= Epidemiologist

WESTERN REGION

Area 18

AZ-need easier depopulation proced.  
CA- \*  
HI-No Response  
NV-Eliminate some of  
the federal chain  
of command

Area 19

AK-No Response  
ID-Federal VIC (st.)  
OR-Eliminate one level  
of federal administra-  
tion

- G. Each state has individual problems in carrying out the present and proposed national plan for brucellosis eradication. Given your expert knowledge of your state, and assuming that the goal continues to be eradication, what do you see as the primary problems, other than money and manpower, in achieving and/or maintaining brucellosis-free status in your state and in the U. S.? Please list these problems and any suggested solutions below; use additional pages appropriately identified if necessary.



- I. G. Each state has individual problems in carrying out the present and proposed national plan for brucellosis eradication. Given your expert knowledge of your state, and assuming that the goal continues to be eradication, what do you see as the primary problems, other than money and manpower, in achieving and/or maintaining brucellosis-free status in your state and in the U. S.? Please list these problems and any suggested solutions below; use additional pages appropriately identified if necessary.

Of 50 possible states, 9 states gave no response and 5 states indicated no problem - 36 states ; 72% of actual response.

24 states; 67% actual response said the greatest problem was the need for tighter controls on cattle movement

- 3 of these states mentioned intrastate movement; 8% actual response
- 4 of these states mentioned a problem with Canadian exports; 11% actual response

7 states; 19% of responding states recorded the need for correct calf-hood vaccination

7 states; 19% of responding states recorded instance of too much incorrect testing

8 states; 22.2% of responding states recorded the need for better testing of market cattle

9 states; 25% of responding states asked more support from industry

1 state; 3% of responding states asked more support from government bodies

7 states; 19% of responding states cited need for dealer's licensing law

3 states; 9% of responding states recorded problems keeping support from various/all segments of government/industry

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#### LEGEND

IR = tighter interstate control of cattle movement needed

IA = tighter intrastate control of cattle movement needed

CV = need for correct calfhood vaccination

T = too much incorrect testing

M = need testing of market cattle

S = need more support from industry

G = need more support from government and legislation

D = need dealer License Law

C = Canadian problem

K = problem keeping support

I. G. (Continued)

NORTHERN REGION

<u>Area 1</u>	<u>Area 2</u>	<u>Area 3</u>	<u>Area 4</u>	<u>Area 5</u>
CT-No Response	NJ-T	DE-No Problem	MI-C	IL-No Problem
ME-S, C	NY-C, T	MD-Epidemiology*	OH-IR, T	IN-IR, M, S, D
MA-M, K, IR, CV	PA-C, M	VA-D		
NH-No Problem		WV-No Response		
RI-No Response				
VT-IR				

\* more expertise needed

Area 6

MN-IR  
WI-D, IR, T

SOUTHEAST REGION

<u>Area 7</u>	<u>Area 8</u>	<u>Area 9</u>	<u>Area 10</u>
KY-IR, K	AL-No Response	GA-IA	FL-IR, M, S
TN-T, S	MS-No Response	NC-IR, D	(PR & VI)
		SC-S	

SOUTH CENTRAL REGION

<u>Area 11</u>	<u>Area 12</u>	<u>Area 13</u>
AR-No Response	NM-CV	TX-Screwworm
LA-No Response	TX-S	
OK-IR, M		

NORTH CENTRAL REGION

<u>Area 14</u>	<u>Area 15</u>	<u>Area 16</u>	<u>Area 17</u>
MT-CV	CO-IR, CV	KS-IA	IA-M, G
ND-No Problem	UT-No Problem	NE-IA, CV	MO-IR, D, S,
SD-No Response	WY-K, IR, T, S, D		Continuing ed. for vets.

WESTERN REGION

<u>Area 18</u>	<u>Area 19</u>
AZ-IR, CV, M	AK-No Response
CA-IR, M	ID-IR, S, D
HI-Help with swine program	OR-CV, T
NV-S	WA-No Response

- H. 1. It is generally recognized that success in achieving eradication is dependant upon the cooperation of producers, market people, and regulatory agencies and officials. Please characterize present attitudes toward the program in your state, of dariryment, beef cattle producers, market operators.

2. Do you feel that attitudes toward cooperation in particular segments of the industry are a substantial barrier to program success?  
NO \_\_\_\_\_ YES \_\_\_\_\_ Please explain.

H. 1. It is generally recognized that success in achieving eradication is dependent upon the cooperation of producers, market operators and regulatory agencies and officials. Please characterize present attitudes toward the program in your state, of dairymen, beef cattle producers, market operators.

of the possible 50 states replying, 43 answered. 86% of possible replies.  
of these 43: 20 listed full cooperation from all three segments of industry.

40% of possible

47% of actual response

30 listed Beef Cattle Producers fully cooperative.

60% of possible

70% of actual response

31 listed Dairymen as fully cooperative.

62% of possible

72% of actual response

21 listed Market Operators as fully cooperative.

42% of possible

49% of actual response

4 listed Beef Cattle Producers as moderately cooperative.

8% of possible

9% of actual response

5 listed Dairymen as moderately cooperative.

10% of possible

12% of actual response

8 listed Market Operators as moderately cooperative.

16% of possible

19% of actual responses

2 listed Market Operators as moderate/negative in attitude.

4% of possible

5% of actual response

1 listed Dairymen as moderate/negative in attitude.

2% of possible

2.3% of actual response

2 listed Market Operators as moderate/negative in attitude.

4% of possible

5% of actual response

4 listed Beef Cattle Producers as negative in attitude.

8% of possible

9% of actual response

4 listed Dairymen as negative in attitude.

8% of possible

9% of actual response



H. 1. continued

9 states listed Market Operators as negative in attitude.  
18% of possible  
21% of actual response

2 states listed Beef Cattle Producers as indifferent.  
4% of possible  
5% of actual response

2 states listed Dairymen as indifferent.  
4% of possible  
5% of actual response

2 states listed Market Operators as indifferent.  
4% of possible  
5% of actual response

NORTHERN REGION

90% response 63% of actual responses list full cooperation from all three.  
12% recorded moderate cooperation from Market Operators  
12% recorded negative cooperation from Market Operators  
9% recorded indifference from all three (i.e., WI)  
9% recorded moderate cooperation from all three (i.e., IL)

SOUTHEAST REGION

75% response 33% of actual responses recorded full cooperation from all three.  
(33 1/3 ea.) 33% recorded moderate cooperation from Market Operators  
33% recorded negative cooperation from Market Operators

SOUTH CENTRAL REGION

60% response 33% of actual responses record full cooperation from all three.  
33% of actual responses record moderate/negative cooperation from  
all three.

NORTH CENTRAL REGION

90% response 44% of actual responses record full cooperation from all three.  
67% of actual responses record full cooperation from Beef Cattle  
Producers.  
67% of actual responses recorded full cooperation from Dairymen.  
44% of actual responses record full cooperation from Market Operators.  
33.3% states record negative attitude in Beef Cattle Producers.  
22.2% states record negative attitude in Dairymen.  
44.4% states record negative attitude in Market Operators.

WESTERN REGION

100% response	No record of full cooperation.
	62% of states record full cooperation from Beef Cattle Producers.
	62% of states record full cooperation from Dairymen.
	25% of states record full cooperation from Market Operators.
	25% of states record moderate cooperation from Dairymen.
	25% of states record moderate cooperation from Beef Cattle Producers.
	36% of states record moderate cooperation from Market Operators.
	13% of states record negative cooperation from Dairymen.
	13% of states record negative cooperation from Beef Cattle Producers.
	13% of states record negative cooperation from Market Operators.
	13% of states record indifferent cooperation from Market Operators.

## NORTHERN REGION

AREA 1	AREA 2	AREA 3	AREA 4	AREA 5
CT Bc Dc Mc	NJ Bc Dc Mc	DE Bc Dc Mc	OH Bc Dc Mn	IL Bm Dm Mm
RI No response	NY Bc Dc Mc	WV No response	MI Bc Dc Mc	IN Bc Dc Mn
NH Bc Dc Mc	PA Bc Dc Mc	VA Bc Dc Mc		
VT Bc Dc Mc		MD Bc Dc Mc		
ME Bc Dc Mc				AREA 6
MA Bc Dc Mc				WI Bi Di Mi
				MN Bc Dc Mm

## SOUTHEAST REGION

AREA 7	AREA 8	AREA 9	AREA 10
KY Bc Dn Mn	MS No Response	NC Bc Dc Mc	FL Bm Dm Mm
TN Bm/n Dc Mn	AL No Response	SC Bc Dc Mc	
		GA Bc Dc Mm	

## SOUTH CENTRAL REGION

AREA 11	AREA 12	AREA 13-SCREWORM TX
LA No response	NM Bc Dc Mc	
AR No response	TX Bm/n Dm/n Mm/n	
OK Bi Di Mm		

## NORTH CENTRAL REGION

AREA 14	AREA 15	AREA 16	AREA 17
MT Bc Dc Mc	WY Bn Dm Mn	KS Bn Dn Mn	IA Bn Dn Mn
SD No response	UT Bc Dc Mc	NE Bc Dc Mc	MO Bc Dc Mm/n
ND Bc Dc Mn	CO Bc Dc Mc		

## WESTERN REGION

AREA 18:	NV	AZ	HI	CA	AREA 19:	OR	WA	ID	AK
	Dn	Dm	?	Bm		Bc	Bc	Bm	Bc
	Bn	Mc	Dc	Dc		Dc	Dc	Dm	Dc
	Mn	Bc	Bc	Mm		Mi	Mm	Mm	Mc

c = full cooperation

m = moderate cooperation

n = negative cooperation

I. H. 2. Do you feel that attitudes toward cooperation in particular segments of the industry are a substantial barrier to program success?  
 NO 32 YES 11 Please explain.

LEGEND:

Y - Yes; N - No; N/A - not applicable; Yn - Yes with a note;  
 Nn - No with a note

NORTHERN REGION

<u>Area 1</u>	<u>Area 2</u>	<u>Area 3</u>	<u>Area 4</u>	<u>Area 5</u>	<u>Area 6</u>
CT-N	NJ-N	DE-N	MI-N	IL-N	MN-N
ME-N	NY-N	MD-N	OH-Nn	IN-Yn	WI-N
MA-N	PA-N	VA-N			
NH-N		WV-No Response			
RI-No Response					
VT-N					

No - 16 (Nn: OH-Needs first point of concentration testing with quarantine of exposed animals in Hi I. states)  
 84% of possible; 94% of actual response

Yes - 1 (Yn: IN-"Dealers and market operators don't seem to grasp the importance of the program.")  
 5% of possible; 6% of actual response

No Response - 2

SOUTHEAST REGION

<u>Area 7</u>	<u>Area 8</u>	<u>Area 9</u>	<u>Area 10</u>
KY-Yn	AL-No Response	GA-Yn	FL-Yn
TN-Yn	MS-No Response	NC-N	
		SC-N	

No - 2 25% of possible; 33% of actual response

Yes - 4 (Yn: KY-Problem with market operators resistance to first point testing; resistance of dealers in the form of noncooperation with epidemiological studies is detriment to program.  
 TN-Market people, opposed to cost and labor needs of program, are a powerful voice.  
 GA-There is a small segment of unscrupulous livestock dealers.  
 FL-Years of test and slaughter without a vaccine discourages field force and industry.)  
 50% of possible; 67% of actual response

No Response - 2



I. H. 2. Continued

SOUTH CENTRAL REGION

<u>Area 11</u>	<u>Area 12</u>	<u>Area 13</u>
AR-No Response	NM-N	Screwworm TX
LA-No Response	TX-Yn	
OK-Yn		

No - 1 20% of possible; 33% of actual response

Yes - 2 (Yn: TX-No progress and heavy losses cause industry to be upset and uncooperative.  
OK-Their southeast corner market operators must improve attitude to halt new infection.)  
40% of possible; 67% of actual response

No Response - 2

NORTH CENTRAL REGION

<u>Area 14</u>	<u>Area 15</u>	<u>Area 16</u>	<u>Area 17</u>
MT-Nn	CO-N	KS-N	IA-Yn
ND-N	UT-N	NE-N	MO-Nn
SD-No Response	WY-Yn		

No - 7 (Nn: There are misinformation and poor attitudes among the dealers in the industry. Unscrupulous owners, dealers and veterinarians are a silent majority. MT  
MO-There is organized resistance among market people.)  
70% of possible; 78% of actual response

Yes - 2 (Yn: WY-The industry's noncooperation creates a barrier to the program's success.  
IA-There is a notable lack of cooperation by various segments of industry and along with unscrupulous dealers' practices.)  
20% of possible; 22% of actual response

No Response - 1

WESTERN REGION

<u>Area 18</u>	<u>Area 19</u>
AZ-N	AK-N/A
CA-N	ID-Yn
HI-N	OR-N
NV-Yn	WA-N

I. H. 2. Continued

WESTERN REGION (cont.)

No - 6 (including one Non-Applicable)  
75% of possible; 75% of actual response

Yes - 2 (Yn: NV-The program offers no significant foreseeable  
reward.  
ID-The dealers do not want to be licensed. The sales-  
yards must be watched. Feedlot operators follow the  
line of least resistance.)  
25% of possible; 25% of actual response

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STATE

3. Please list suggestions on steps to be taken which might improve cooperation in your state.

- H. 3. Please list suggestions on steps to be taken which might improve cooperation in your state.

Total possible 50: actual response with suggestions 25 answered. 50% of states responded with suggestions (8 states listed no problem 16%; 17 gave no response - 34)

13 states suggested better education for involved parties (state officials, owners, press) they cited a lack of knowledge of the law as a problem and suggestions pointed to requiring all who talk about the program in an authoritative manner/capacity actually have the correct facts and provide up-to-date information-52% of responding states.

6 states noted need for uniform, firm law enforcement: .24% of responding states.

5 states noted need for increased laboratory facilities/management; more professional care taken with work: 20% of responding states.

2 states noted specific need for better testing procedure: 8% of responding states.

6 states noted need for increased indemnity to be promptly paid (attitude [if not \$] of importance here?): 24% of responding states.

3 states suggested the inclusion of cattlemen as resource people: 12% of responding states.

2 states requested an increase in calfhood vaccination: 8% of responding states.

2 states requested an increase in calfhood vaccination: 8% of responding states.

1 state requested free owner -- requested vaccination: 4% of responding states.

1 state requested a vaccination base of breeding stock in Certified Free states: 4% of responding states. (5 states interest in vaccination: 20% of responding states).

2 states requested government payment for backtagging: 8% of responding states.

1 state requested a license law for market dealers: 4% of responding states (see earlier question, I.G. for further results on license law comment.)



H. 3. Suggestions for cooperation in each state

No problem

Legend: No Problem

Michigan  
New York  
Pennsylvania  
South Carolina  
Vermont  
Virginia  
Wisconsin  
Delaware

1. Better education for all segments concerned: they must know the law and know that it will be uniformly enforced with penalties for all violators.

re. State officials: Legend: Ed.  
Maryland

re. Owners, press, and state officials:  
Minnesota Indiana  
Missouri Idaho  
Montana Colorado  
North Carolina Kansas  
Ohio  
Oklahoma  
Wyoming  
Oregon

2. re. Uniform, firm enforcement: Legend: U  
Missouri Kansas  
Oklahoma Colorado  
Utah  
Wyoming
3. re. Professionals and lab organization: Legend: P  
Nebraska  
Tennessee  
Missouri  
Montana  
New Jersey (better testing)
4. re. Increased indemnity, pd. promptly: Legend: I  
Nebraska New Jersey  
Nevada  
Oklahoma  
Ohio  
Texas
5. re. Bring in cattlemen on consultation basis: Legend: C  
Texas  
Utah  
Tennessee

H. 3. continued

6. re. Calfhood vaccination: Legend: V  
Increase: End:  
Massachusetts - Texas North Dakota  
Idaho (base under breeding stock in CF states)
7. re. Backlagging: it should be government paid: Legend: B  
Iowa  
California
8. re. Dealers - should be licensed: Legend: D  
(also see I.G.)  
Iowa

---

Free owner requested vaccination - Texas

Federal management of livestock - Ohio

Quarantine and retest all imported cattle from non-qualified herd - GA

Swine I.D. Program should be paid for -IA

A sense of one eradication program should be encouraged rather than a federal  
and a state program - UT

H. 3. continued

NORTHERN REGION

AREA 1	AREA 2	AREA 3	AREA 4	AREA 5
CT No response	NJ I-P	DE No problem	OH Ed.-I	IL No response
RI No response	NY No problem	WV No response	MI No problem	IN Ed
NH No response	PA No problem	VA No problem		
VT No problem		MD Ed.		AREA 6
ME No response				
MA V				WI No problem
				MN Ed.

SOUTHEAST REGION

AREA 7	AREA 8	AREA 9	AREA 10
KY No response	MS No response	NC Ed.	FL No response
TN P-C	AL No response	SC No problem	
		GA Quarantine+	
		Retest	

SOUTH CENTRAL REGION

AREA 11	AREA 12	AREA 13-SCREWORM TX
LA No response	NM No response	
AR No response	TX I-C-V	
OK I-Ed.-U		

NORTH CENTRAL REGION

AREA 14	AREA 15	AREA 16	AREA 17
MT Ed.-P	WY Ed.-U	KS Ed.-U	IA D-B
SD No response	UT U-C	NE I-P	MO U-Ed.-P
ND V	CO Ed.-U		

WESTERN REGION

AREA 18:	NV	AZ	HI	CA	AREA 19:	OR	WA	ID	AK
	I	No	Ed.	B		Ed.	No	Ed.	No response
	Res-					Res-		V	
	ponse					ponse			

- I. Question dropped as inadequately phrased.
- II. Questions dropped as more usable data were obtained  
in retrospective study of 12 States Program, Appendix D.



- I. Assume that the national goal and the goal of your state is to continue to eradicate bovine brucellosis in the U.S., how many years would it take (your best estimate) to meet this goal if your previous recommendations were adopted?

1. Your state \_\_\_\_\_
2. In the U.S. \_\_\_\_\_

II. Resources Devoted to Animal Disease Control Programs in Your State.

- A. Personnel for Animal Disease Control (exclude Meat Inspection Program personnel).

1. Personnel paid by state funds for all animal disease control activities (exclude federal contract funds or grants).

	No. of DVM's		No. of Non DVM's		Total
	Admin	Field	Admin	Field	
1956	_____	_____	_____	_____	_____
1966	_____	_____	_____	_____	_____
1976	_____	_____	_____	_____	_____

2. Funds devoted to the Brucellosis Program in your State (State funds as reported to USDA for matching federal funds).

	State Funds	Federal Funds	Total
1956	_____	_____	_____
1966	_____	_____	_____
1976	_____	_____	_____

III. Alternative Programs or No Federal Program to Control or Eradicate Brucellosis of Cattle.

- A. Assume that the federal government decides to withdraw funds from the present program and abandon the goal of eradication, what alternative program would your state most probably adopt?

1. Continue to work toward or maintain the goal of eradication.  
YES \_\_\_\_\_ NO \_\_\_\_\_
2. Institute a control program that would include at least the vaccination of 90% of eligible calves, with some state funding.  
YES \_\_\_\_\_ NO \_\_\_\_\_
3. Discontinue state funding for eradication and control as program goals.  
YES \_\_\_\_\_ NO \_\_\_\_\_
4. Other alternatives.  
YES \_\_\_\_\_ NO \_\_\_\_\_

Results on Part III

	<u>Yes</u>	<u>No</u>
I.	32	7
II.	13	20
III.	2	28
IV.	7	11

Question was - Assume federal government were to withdraw funds from the present program - what would your state do.

- I. Continue to work toward or maintain goal of eradication
- II. Institute a control program including vaccination of 90% of eligible calves with some state funding.
- III. Discontinue state funding for eradication and control as program goals.
- IV. other alternatives

- I. No: Texas, Georgia, California, Tennessee, Maryland, Florida, New Mexico,  
"Continue to work toward or maintain policy of eradication".
- II. Yes: Massachusetts, Montana, Delaware, Texas, Oklahoma, Indiana, California, Alaska, Connecticut, Colorado, Kentucky, Nevada, Utah,  
"Institute a control program with vaccination of 90% eligible calves with some state funding".
- III. Yes: Georgia, Florida  
Discontinue state funding for eradication and control as program goals.

5. Please list or describe the economic, the public health and/or the political advantages or disadvantages that would most likely accompany your selection of one of the above alternatives on additional pages.

III. 5. Please list or describe the economic, the public health and/or the political advantages or disadvantages that would most likely accompany your selection of one of the above alternatives on additional pages.

("response" = answer from a responding state re. one issue per % calculation. Any state may give more than one response, according to number of problems articulated.)

Of 50 possible state responses 34 were given. 68% total.

11 of 34 thought any alternative unfeasible: 22% of possible responses  
32% of actual responses

9 states thought they would have a problem maintaining surveillance:  
18% of possible responses  
26% of actual responses

4 states thought the nearby free states would loose ground:  
8% of possible responses  
11% of actual responses

11 states would attempt to continue program despite difficulties obtaining state funds:  
22% of possible responses  
32% of actual responses

6 states would turn to a vaccination program: 12% of possible responses  
17% of actual responses

7 states feared a rise in human infection: 14% of possible responses  
20% of actual responses

2 states feared no increase in human infection:  
4% of possible responses  
6% of actual responses

(See area list below for specific breakdown)

LEGEND:

U = Unfeasible as general comment

S = Problem maintaining surveillance

C = Continuation of program on state funds would be attempted

L = Nearly free states would loose ground

V = would turn to vaccination program

H = fear of more human infection

N = No fear of more human infection

# III. 5. continued

## NORTHERN REGION

AREA 1	AREA 2	AREA 3	AREA 4
CT C	NJ C	DE C	OH U
RI No response	NY No response	WV No response	MI No response
NH No response	PA S-C-H	VA C	
VT U		MD U	
ME No response			
MA V		AREA 5	AREA 6
		IL U-L	WI No response
		IN C	MN N-S

## SOUTHEAST REGION

AREA 7	AREA 8	AREA 9	AREA 10
KY S	MS No response	NC U	FL S-V-N
TN V	AL No response	SC C	
		GA C-H	

## SOUTH CENTRAL REGION

AREA 11	AREA 12	AREA 13 - SCREWORM TX
LA No response	NM U-S-L	
AR No response	TX Opposition to program	
OK S-H	would end	

## NORTH CENTRAL REGION

AREA 14	AREA 15	AREA 16	AREA 17
MT H-V-S	WY C-U	KS No response	IA U
SD No response	UT V	NE U	MO U-H
ND No response	CO C		

## WESTERN REGION

AREA 18:	NV	AZ	HI	CA	AREA 19:	OR	WA	ID	AK
	only	S	C	V		L	No	S	No response
	possibility		L	H		U	Res-	H	
							ponse		



IV. Public Health Aspects \*

1. Do you have comments or suggestions regarding the public health aspects of brucellosis in your state. Include your ideas on prevalence, reporting systems, interaction with state public health officials, other public policy issues.

\* IV. Questions dropped as more usable data have been incorporated into the study, Appendix A, Human Health Aspects of Brucellosis.

2. Are you aware of outbreaks among slaughter house or other livestock industry workers in your state within the last 5 years. Indicate which may not have been reported to Center for Disease Control. Indicate, if known, probable infecting organisms (B. abortus, B. suis).

- V. Additional Comments or Suggestions for the Committee to Consider. Please list or describe on additional pages if needed.

## Additional Comments

### NORTHERN REGION

Protect low incidence states from more heavily infected areas.  
Limit number of markets and dealers the herd may move through. --IN

Depopulation rather than vaccination - a better use of funds - OH.

The card test used alone is causing "overkill". Increase Federal indemnity; the certified states now carry more of this burden than the Federal Government - NJ.

Require herd test on farm prior to sale, on non BRT negative herds, yearly. Also negative test on the animals to be sold within thirty days of sale. Enforce stricter USDA interstate requirements for cattle movement. Lower age exemption on vaccinates for interstate shipment. Bleed all over 12 months of age, plus test of entire herd of origin within 12 months. Require dealer licensing and complete dealer records. Require test of all animals (sold by a dealer) within 30 days of sale plus name of herd of origin - PA.

Objection to tone of some questions in questionnaire was raised. Adopt regulations that will encourage owners to "clean up" their herds. It has been demonstrated that eradication can be accomplished - do it. Use no public funds for vaccination - MI.

It is difficult to justify the continued occurrence of brucellosis in human workers and families. Stricter regulation needed to combat the above problem. USDA must strengthen import regulations for foreign cattle, e.g., Canada - NY.

USDA needs: a better knowledge of field level work; to exercise more cooperative supervision at field level; to provide additional funding and personnel where needed, and to actively see that UM&R are being enforced in all states - MD.

There is a need for: stricter control of labs reporting test results, control of hog and goat movement, as cattle is controlled - CT.

There is a need for: tighter controls by all states on the MCI back-tag regulations, increased prosecution of illegal cattle movement across state lines, increased surveillance at slaughter establishments to insure proper testing, and USDA control of vaccine and antigen - WI.

There is a need to: tighten control measures in now Certified Free states; check the reintroduction of brucellosis into clean areas through (a) feeders diverted to breeding cattle, (b) illegal movement of untested cattle - IN.

V. Continued

NORTH CENTRAL REGION

There is need to: limit the maximum number of brucella strain 19 organisms permitted in each dose of vaccine; overload is a problem - MT.

More work must be directed toward finding the infection - slaughter surveillance is inadequate. All states must have a change of ownership test requirement - NE.

Calfhood vaccination is not a sufficient reason to move animals without restriction. Due to the 65% effectiveness rate of the vaccine, vaccinated animals should be moved under quarantine until the entire group tests negative. Br. suis has not been given proper attention by the USDA, hence the disease has not been eradicated - IA

To speed up the workable eradication program now in operation we need: to put in compulsory calfhood for about five years [sic]; APHIS must monitor programs uniformly in all states and impose sanctions if rules are broken; low incidence states will have to help high incidence states in order to completely eradicate brucellosis - CO.

See sheet - MO.

WESTERN REGION

There is need for a base of vaccinated breeding stock to prevent reinfection; Utah has just passed such a law - ID.

MCI tracebacks to feedlots indicate that reactors are there being introduced: we are testing eligible cattle into "reactor" feedlots - this infection must be eliminated - OR.

We need: a committee to pressure Southeastern United States and an investigation of joint use pastures - AZ.

- V. Additional Comments or Suggestions for the Committee to Consider. Please list or describe on additional pages if needed.
- I. Alter status designations so as to make status more realistic. Certified free should indicate the absence of brucellosis infection. Areas such as Mississippi, Louisiana, East Texas and Florida should not enjoy the same status as states such as Missouri, Nebraska, and others with much lower incidence. Free status should be granted on a state-wide basis only.
- II. Calfhood Vaccination
- A. Upper limit on calfhood vaccination should not exceed 179 days. The 10 month upper limit should be abolished.
- B. Control distribution of Strain 19 removing it from lay channels.
- C. To establish an upper limit on the number of viable Strain 19 organisms per cc. dose.
- D. Require a test of OCV animals per change of ownership, regardless of age, due to the fact that vaccinated animals moving in channels of trade without test are frequently responsible for the introduction of Brucellosis into clean herds and areas.
- E. APHIS policy encouraging the use of Strain 19 vaccine should be restricted to the high incidence states.
- III. National Dealer Licensing Law should be enacted and rigidly enforced. State and local dealer licensing laws have most generally failed to accomplish the necessary purpose for which they were enacted.
- IV. To re-define what constitutes a "reactor" diagnosis. Although the UM&R and the CFR presently define a "reactor" "an exposed animal", liberties are being taken with the diagnosis by a number of states which jeopardize the interests of the buyer and which sometimes results in infection being introduced into clean herds and areas.
- V. Federal indemnity should be provided for heifer calves nursing reactor dams.
- VI. Federal indemnity should be provided to assist in depopulation of badly infected herds in Modified Certified areas.
- VII. A 6-month retest should be required for quarantine release of infected herds. The 120-day quarantine release is insufficient to encompass the incubation period which frequently exceeds 120 days.
- VIII. Demand that USDA, APHIS require full compliance with the minimum standards contained in the UM&R by all states. USDA should keep all states fully informed of any deviations of policy and program which exists in any state. (ie. those states which do not confirm all auction market tests should be exposed so that receiving states could take appropriate steps to protect themselves against the introduction of diseased animals from such areas.





Report

National Brucellosis Technical Commission

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Appendices F-J

Miscellaneous

Prepared For

U. S. Animal and Plant Health Inspection Service

and

United States Animal Health Association

August 28, 1978

## Appendix F

### List of Conferences Attended and Presentations: National Brucellosis Technical Commission

July 12, 1976 - July 15, 1976

College Station, TX

Symposium on brucellosis and National Brucellosis Technical Commission meeting

Attended by: National Brucellosis Technical Commission members and Dr.

L. M. Jones

July 22 - 23, 1976

Denver, CO

National Cattlemen's Association-Health Committee

Attended by: David T. Berman and W. T. Berry

August 19, 1976

Minneapolis, MN

Research Conference for the National Brucellosis Technical Commission

Attended by: David T. Berman and R. K. Anderson

August 31 - September 3, 1976

Hyattsville, MD

Meeting of the National Brucellosis Technical Commission with APHIS staff

Attended by: National Brucellosis Technical Commission members

October 25, 1976

Chicago, IL

Meeting of the National Brucellosis Technical Commission

Attended by: National Brucellosis Technical Commission members

November 4 - 18, 1976

Miami Beach, Okeechobee, FL

Conducting Public Hearings

Brucellosis Technical Commission meeting at the U.S. Animal Health Association

Collection of data at farms and markets for the National Brucellosis Technical

Commission

Attended by: National Brucellosis Technical Commission members

November 28 - December 4, 1976

Chicago, IL

Fresno, CA

Meeting on Brucellosis Research, Chicago

Public Hearing for the National Brucellosis Technical Commission, Fresno

Data collection in California

Attended by National Brucellosis Technical Commission members

December 9 - 10, 1976

Hyattsville, MD

Data collection at USDA-APHIS regarding National Brucellosis Technical Commission

Attended by: David T. Berman

January 25 - 26, 1977

Washington, D.C.

Research Conference at USDA

Attended by: David T. Berman

February 17 - 19, 1977

Kansas City, MO

Hearings conducted by the National Brucellosis Technical Commission

Attended by: National Brucellosis Technical Commission members

March 14 - 19, 1977

Gainesville, FL

Brucellosis Conference Southern Regional Epidemiologists

Attended by: David T. Berman and R. K. Anderson

May 6, 1977

Minneapolis, MN

Conference with R. K. Anderson

Attended by: David T. Berman and R. K. Anderson

May 11 - 12, 1977

Columbus, OH

Meeting of the Brucellosis Committee of Livestock Conservation Institute

Attended by: David T. Berman

May 15 - 20, 1977

College Station, TX, Tyler, TX

Working Session of National Brucellosis Technical Commission

Public hearings and collection of data on Texas farms

Attended by: National Brucellosis Technical Commission members

May 19, 1977

Ames, IA

Presentation to Extension Veterinarians

Attended by:

June 1 - 2, 1977

Washington, D.C.

Conference with USDA personnel on National Brucellosis Technical Commission project

Attended by: David T. Berman

June 9, 1977

Meeting with USDA staff

Attended by: David T. Berman

June 15 - 17, 1977

Minneapolis, MN

Meeting of the National Brucellosis Technical Commission

Attended by: National Brucellosis Technical Commission members

June 21 - 23, 1977

Minneapolis, MN

Conference with R. K. Anderson

Attended by: David T. Berman and R. K. Anderson

July 21 - 22, 1977

Washington, D.C.

Meeting with APHIS staff

Attended by: David T. Berman

September 15 - 20, 1977

Boothbay Harbor, MA

Workshop of National Brucellosis Technical Commission, with collection of field data for Commission

Attended by: National Brucellosis Technical Commission members

October 16 - 21, 1977

Minneapolis, MN

Meeting of National Brucellosis Technical Commission; presentation of interim report to U.S. Animal Health Association

Attended by: National Brucellosis Technical Commission members

October 31 - November 3, 1977

Washington, D.C.

Report on the National Brucellosis Technical Commission presented to the U.S. Public Health Association

Conference with USDA staff

Attended by: David T. Berman and R. K. Anderson

November 26 - 30, 1977

Conference of Research Workers in Animal Diseases - Brucellosis

Attended by: David T. Berman and R. K. Anderson

January 15 - 20, 1978

College Station, TX

Meeting of the National Brucellosis Technical Commission

Attended by: National Brucellosis Technical Commission members



February 13 - 14, 1978

Chicago, IL

Meeting of the National Brucellosis Technical Commission

Attended by: National Brucellosis Technical Commission members

March 3 - 4, 1978

Berkeley, CA

Conference with Professor S. Elberg

Attended by: David T. Berman and Sanford Elberg

March 9 - 10, 1978

Minneapolis, MN

Conference with R. K. Anderson on National Brucellosis Technical Commission  
business

Attended by: David T. Berman and R. K. Anderson

July 20 - 21, 1978

Dallas, TX

AVMA Convention

Anderson and Wise papers presented

July 21 - 23, 1978

College Station, TX

Working Conference of the National Brucellosis Technical Commission

Attended by: R. K. Anderson, W. T. Berry and John A. Hopkin

July 31 - August 2, 1978

Chicago, IL

Working Conference of the National Brucellosis Technical Commission

Attended by: National Brucellosis Technical Commission

## Appendix G

### Position Papers Submitted to the National Brucellosis Technical Commission

#### Individuals

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Independent Cattlemen's Association  
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BRUCELLOSIS ERADICATION IN WILDLIFE

Milton Friend

A Position Statement

The U.S. Fish and Wildlife Service (hereafter referred to as the Service) commends the U.S. Department of Agriculture (USDA) for its efforts to control and eventually eradicate brucellosis in domestic animals. The prevalence of the disease in cattle has been greatly reduced by means of the eradication program, resulting in increased productivity, with consequent economic gains, and a decline in the infection rate in man.

The Service acknowledges the existence of brucellosis in bison and elk in the Yellowstone National Park (YNP) but rejects the contention that its eradication in bison is essential to eradication in cattle for these reasons:

(1) Cattle continue to be the major reservoir of Brucella abortus in the United States. A gradual downward trend in the reactor rate since 1970 was abruptly reversed FY 1973, when it increased from 1.05 per 100 blood tests in 1972 to 1.16. Also, the number of infected herds in the 50 states increased 8 percent to 12,435 in 1973. In FY 1974 there was an additional 24 percent increase in reactors over the previous year. These data indicate that, even in spite of the advantages of working with confined populations, the relative ease of handling domestic animals, the test-and-slaughter programs, brucellosis is not only maintaining itself but gaining ground in some areas. Undue concern about a few hundred bison in YNP, therefore, seems a bit premature.

(2) Not a single instance of transmission of brucellosis from YNP bison to cattle in the surrounding area has been documented. Counties of the states adjoining YNP have been brucellosis free for more than 10 years. Moreover, 86% of the infected cattle herds in FY 1973 were in only 10 states: Texas, Louisiana, Mississippi, Oklahoma, Alabama, Arkansas, Florida, Georgia, Kentucky and Tennessee. Obviously, the Yellowstone bison could have contributed nothing to the disease problem in these areas.

(3) Cattle in the areas surrounding YNP can be adequately protected from brucellosis by continuing the practice of calfhood vaccination. During FY 1974, 128,148 and 309,594 calves were vaccinated in Wyoming and Montana, respectively. The reactor rates for farm and ranch cattle were 119.6 and 74.9 per 10,000 cattle tested in the two states.

(4) The present knowledge of brucellosis in bison and other wild animals and their potential role in its transmission to domestic species is insufficient to establish a need for eradication efforts in wildlife.

(5) The USDA proposal for eradication of brucellosis is not rational for several biological reasons stated by the National Park Service (Attachment A). It would result in the near total destruction of the present bison population, most likely a useless waste, since far greater numbers of elk in the Jackson Hole area of Wyoming are known to be infected than there are bison in YNP. The disease is self-perpetuated in elk maintained by winter feeding programs in Wyoming and, because of their greater numbers (about 25,000 in western Wyoming), mobility, and sharing of cattle habitat, elk pose a greater threat to cattle than do bison with respect to the transmission of disease.

(6) A precedent for the destruction of wildlife species in the course of controlling or eradicating diseases of domestic animals should not be set without scientifically sound justifications.

The National Park Services (NPS) alternative plan for controlling potential transmission of brucellosis from bison to cattle, with a few modifications, appears to be adequate, at least until further studies point out deficiencies or suggest new approaches. This plan involves:

(1) Routine monitoring of bison within YNP to determine whether any animals are in boundary areas where they might move to outside ranges that are used by domestic cattle.

(2) Destruction of any bison that are in specified bounds.

(3) Impoundment of any cattle that trespass into the park a sufficient distance to encounter bison and brucellosis testing of these animals at the owner's expense. Since the NPS believes it "highly unlikely" that cattle would stray so far across Park boundaries, the cost of constructing facilities for extended impoundment could hardly be justified. Immediate destruction of trespassing cattle would be a more economical solution.

In addition to the NPS plan, the Service recommends:

(1) A buffalo calf vaccination program to gradually reduce the incidence of infection within the herds. The degree of success of such a program presumably would be directly related to the proportion of the calf population that could be captured. Obviously, the value of Strain 19 vaccination in bison should be established before undertaking a large-scale program.

(2) A ban on the transportation of live or dead bison (or any parts thereof) from YNP for any purpose, until the epizootiology of brucellosis in Park wildlife is better understood.

(3) To the extent that accessibility of the herds permits, incineration of aborted fetuses and fetal membranes and chemical disinfection of areas contaminated by them or by uterine discharges.

Although the Service does not support the need for eradication of brucellosis in bison in YNP at the present time, it does recognize the need for additional knowledge of the disease in wildlife, particularly in bison and elk. Although invertebrates, rodents, and wild carnivores are not considered to be important in the epizootiology of the disease in bovids and cervids, they have not been studied extensively as hosts of the Brucellae, particularly with respect to their role in the transmission of these agents.

Other areas of immediate concern are the potential for transmission of brucellosis among bison, elk, and cattle and the efficacy of Strain 19 vaccine in both bison and elk. Research is also needed on the pathologic effects of the disease on these populations and the persistence of Brucellae in wild animal carcasses, fetuses, fetal membranes, and discharges.

The development of our knowledge in these research areas would benefit both wildlife and agricultural agencies and, therefore, the Service supports the instigation of cooperative studies between USDA and USDI as soon as possible and certainly before any decision is made with respect to the destruction of a population that has in no way been incriminated in the dissemination of disease among domestic animals.



California Food and Agriculture Code Ch 646

Article 8. Brucellosis Eradication Compensation Costs

10491. The Legislature finds and declares brucellosis is a severe and debilitating disease in human beings and is a serious disease of cattle, swine, sheep and goats. Elimination of brucellosis in California is of public benefit since human beings contract the disease directly from animals or their products, and it is necessary to provide protection to both the livestock industry and the public health.

The Legislature therefore declares that livestock infected with or exposed to brucellosis are a public nuisance as a threat to other livestock and to human health. The Legislature therefore declares that the eradication of brucellosis must be expedited.

It is, therefore, the intent of the Legislature that the owner of an infected herd of cattle who does not diligently pursue the eradication of brucellosis from his herd in cooperation with his veterinarian, other cattlemen and the department, shall be responsible for paying to the director the full costs of the department for all brucellosis eradication efforts in his herd in accordance with the provisions of this article. Payment of such costs shall not excuse compliance with the provisions of law, regulations and order of the director, nor be a defense in criminal or civil actions.

19492. If an owner of cattle refuses to slaughter exposed, non-reacting bovine animals pursuant to the provisions of Article 7 (commencing with Section 10421) when requested by the director to do so, the cattle owner shall then be responsible for paying to the director the full costs of the department in eradicating brucellosis from his herd. Such responsibility shall begin with the refusal to slaughter exposed, non-reacting animals and shall continue until brucellosis is eradicated from the herd.

10493. The following procedures shall be followed when brucellosis has been identified in a herd of cattle:

(a) An official veterinarian shall conduct an epidemiological investigation of the infected herd and premises involved in order to determine the specific methods and actions necessary to eradicate the disease from the herd.

(b) Upon request of the owner of the infected herd, the investigation provided for in subdivision (a) shall be conducted with the assistance and participation of a licensed veterinarian selected by such owner.

(c) An official epidemiological report shall be prepared which shall specify the methods and actions necessary to eradicate the disease, and shall include reasonable guidelines for timing the accomplishment of the various tasks associated with such activity.

(d) Any person who is aggrieved at any determination made pursuant to this section may appeal in writing to the director within five days after notice of such determination. The director may affirm, reverse or modify such determination after his review of the epidemiological report and the issues involved.

(e) The epidemiological report required by subdivision (c) shall become the basis for a memorandum of understanding which shall be developed between the owner of the infected herd and the department covering the following points:

(1) Herd management practices that will be employed to facilitate the disease eradication effort.

(2) Any physical facilities modification that will be required in the eradication effort.

(3) Specific dates for accomplishing the various tasks required in the eradication effort.

This memorandum of understanding may be developed with the participation of a licensed veterinarian if such veterinarian participated in the epidemiological investigation pursuant to subdivision (b).

10494. If an owner of brucellosis infected or exposed cattle refuses to participate in the development and signing of the memorandum of understanding required by subdivision (e) of Section 10493, or fails or refuses to comply with the provisions of such memorandum, the cattle owner shall immediately become responsible for paying to the director all further costs incurred by the department in eradicating the disease from the herd of cattle owned by such person.

10495. If an owner of a brucellosis infected herd violates any law or regulation pertaining to brucellosis eradication, the cattle owner shall immediately become responsible for paying to the director all further costs incurred by the department in eradicating the disease from the herd of cattle owned by such person.

SEC. 12. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

Legal Memoranda

It has been suggested in some quarters that wider compliance with the U.M.&R. could be encouraged by a system of regulations which relies on a private enforcement mechanism. That is, that dealers, and owners who sell breeding cattle, will be encouraged to act in conformity with regulations because of the prospect that individuals will initiate legal actions against them if they do not. Those who think that a system of regulations which is dependent on the incentive of privately invoked common-law or statutory remedies may have a two-fold basis for their assessment. First, there has been publicity recently concerning successful litigation in civil suits against dealers who misrepresented the health status of their cattle. Secondly, private enforcement of regulations holds out the attractive prospect of achieving the desired objective of wider compliance without further increasing what is already perceived as an unwieldy bureaucracy.

As attractive as the prospects of a private enforcement scheme might be, undue reliance should not be placed upon them in this particular case. For a number of reasons to be discussed later, their impact is likely to be negligible.

I. Legal Basis Under Which a Dealer Could be Sued

One statutory basis under which a buyer could pursue a remedy in the event of a dealer or other seller implicitly misrepresenting the health of livestock sold, would be the Uniform Commercial Code (U.C.C.). This was done successfully in Federal District Courts in Oklahoma and North Carolina during 1976, where it was alleged by buyers of cattle that the dealer breached an implied warranty that the cows were suitable for dairying, when they were actually infected with brucellosis.

There are several provisions of the U.C.C. which are pertinent to the issue of implied warranties in the sale of goods.

Section 2-314 of the U.C.C. deals specifically with implied warranties and provides that:

"...a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind."

For goods to be merchantable they must:

a) pass without objection in the trade under the contract description and...c) (be) fit for the ordinary purposes for which such goods are used. Sec. 2-314 (3) also provides that "unless excluded or modified,



other implied warranties may arise from course of dealing of usage or trade."

The U.C.C. provides therefore, a potentially broad remedy for breach of implied warranty. To bring suit under 2-314, a plaintiff must show that the seller is a merchant with respect to the goods in question. Once this threshold issue is crossed, the plaintiff must show the existence of the warranty, the fact of its breach, and that the breach was the cause of the loss sustained.

## II. Policy Implications

In spite of the broad applicability of the U.C.C. provisions concerning implied warranties, neither it, nor other statutory provisions which rely on individual enforcement of claims, is likely to have a significant impact on compliance with eradication procedures of the USDA or other administrative agencies. Because of limitations inherent in any private enforcement scheme, and the constraints peculiar to this particular case, there is little likelihood that a sufficient number of suits would be brought to have a deterrent effect on those who sell infected cattle.

First, not many suits will be brought by aggrieved buyers because of the high cost of litigation. This is particularly true in a case which involves the proof of infection with brucellosis. Such proof involves the time and testimony of expert witnesses, so that unless the government can furnish and compensate them, litigation costs may be pushed so high that the beef or dairy farmer may not feel it is worth the risk to pursue his claim.

Secondly, it is not easy to prove that brucellosis was introduced into a herd by other specific animals. This problem of proof would also militate against a large number of suits being brought.

It is also a reasonable assumption that only a minority comprised of the better informed, more aggressive, and financially well situated dairy and beef farmers would be aware of their potential remedies through the courts, and be willing to take the risks that utilizing that remedy entail.

Finally, one should distinguish between the court's execution of a judgment and actual recovery. Any party to litigation should be prepared for the possibility that the seller's insurance company will refuse to pay the judgment, as, in fact, did happen in Oklahoma. This prospect of insurance company resistance is another constraint on the private enforcement model.

Perhaps the constraints on the private enforcement model could be overcome, to a degree, by the imposition of double or treble damages

on dealers for breaches of regulatory legislation, though this would surely strengthen insurance companies' resolve to avoid paying claims levied against their policy holders. The imposition of penal damages would also require further legislation.

### III. The Potential of Administrative Remedies

Administrative enforcement may be a more effective method of inducing compliance with the U.M.&R. and state regulations. Several states have passed legislation which as the purpose of regulating the practices of livestock dealers to insure that these dealers do not engage in practices which could endanger public health or damage the competitive structure of the industry, and have provided for enforcement by appropriate agencies.

Ohio, for example, has made laws directed toward these ends. Sections 943.01 et. seq. of the Ohio Revised Code provides for the licensing of all livestock dealers and brokers, the inspection of livestock yards, and the imposition of fines and/or prison sentences for violation of statutory requirements. Enforcement can be effected either by aggrieved individuals who may seek a remedy in the state courts under Section 943.17, or by the actions of the state Director of Agriculture who may seek permanent injunctions in the courts, and may revoke any license without a prior hearing when it is determined from the evidence presented that there is reasonable cause to believe that:

1. The licensee has violated the laws governing the intrastate or interstate transport of animals.
2. There have been false or misleading statements made as to the health or physical condition of the animals.

### IV. Application of Ohio-type Regulations to the Problem of National Compliance with U.M.&R.

At least in the abstract, a federal law with provisions analogous to those of the Ohio statutes could act as a strong incentive for dealers to comply with the U.M.&R. Empowering an administrative officer to summarily revoke licenses would seem to be a particularly strong deterrent to any illegal practices. The loss of a license could well be feared more than any fine which a court would impose. The delegation of power to the administrative agency also, in a large number of cases, eliminates the necessity for the individual buyer to assume the burdens of litigation. This is not to say that administrative remedies are a panacea. Any such laws have limitations as a result of the problems of policing a large and widely dispersed industry, the political constraints posed by strong industry groups which perceive regulatory measures as an unnecessary interference with their business, and the natural reluctance of state agents to fully enforce the penalties provided by the law



against local beef and dairy farmers or dealers. These limitations are illustrated by the fact that, in spite of the threat of administrative action, in many localities the practice of "screening" still occurs.

V. National Packers and Stockyards Act as Paradigm of National Regulation Which Provides for Administrative Enforcement

The National Packers and Stockyards Act (7 U.S.C.A. 133) is an example of national legislation which attempts to regulate one aspect of the livestock industry through administrative channels. Some of the provisions of that legislation may be illustrative of the kinds of incentives and disincentive mechanisms which could be built into national legislation concerning brucellosis eradication. For example under Section 193 of the Act, whenever the Secretary of Agriculture has reason to believe any dealer is violating the fair-trade practices requirements of the law he is empowered to serve a complaint upon that dealer and to require that the person named in the complaint appears at a hearing. If at the hearing it is found that the dealer has engaged in any proscribed activity, the Secretary may issue a permanent injunction stopping such activity. Any such order is final unless appealed to a circuit court within 30 days. The Act also provides for recovery of monetary damages caused by any violation. Such liability may be enforced either by complaint to the Secretary of Agriculture or by suit in a district court of the United States with competent jurisdiction.

Administrative mechanisms such as those of the Packers and Stockyards Act seem to serve much the same purpose as the provisions of the Ohio statutes. That is, to give administrative agencies the power to act in a quasi-judicial role, and to take some of the burden of initiating legal actions off the individual, who may not be well situated to take such action.

VI. Effect of Legislation

It should be noted that any implementation of national uniform regulatory legislation would represent a substantial departure from the present regulatory scheme. At present the U.M.&R. are enforced through state federal cooperative agreements, which permit the states to tailor their regulatory legislation to their specific needs, as long as the minimal standards of the U.M.&R. are complied with, and could be the case that the political obstacles to uniform national regulation would be insurmountable.

THE UTILIZATION OF ADMINISTRATIVE PROCEDURES AT STATE LEVELS TO CONTROL AND CONTAIN THE INCIDENCE OF BRUCELLOSIS IN CATTLE.

Introduction

A review of governmental actions in recent years that have affected consumer-merchant transactions would reveal a progression through four distinct stages: first has come legislation requiring disclosure of significant facts about the terms of various consumer transactions, followed next by legislation regulating some of those terms and those professional who deal with consumers. The next step has been legislation establishing mechanisms for governmental enforcement of these regulations. Finally, legislation and enforcement practices have been developed to compensate the consumer when products fail to meet expected standards.\*

With the advent of consumer protection laws, products generally have improved as the result of private contract or tort claims brought against the manufacturer. The extension of this concept to the area of improving cattle health appears to lend promise in controlling brucellosis.

At the present time, all of the states have laws and regulations dealing with animal health, and there has been an increasing trend toward providing an incentive through consumer protection as a means of eliminating the sale of diseased cattle. Most legislation in this area, however, has been intended to be enforced through private court actions, most notably under the Uniform Commercial Code.

Administrative Action Awarding Damages

Generally exclusive authority to award compensatory damages for loss to individuals is vested within courts\*\* and not within agencies. However, modern trends in administrative law have permitted some agencies to compensate private individuals for injury and loss. Most notable of these agencies, are the trade commission, established to prevent deceptive trade practices within the various states. Courts generally reason that where an agency is charged with an enforcement activity, not only may the agency issue a cease and desist order but may

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\* See Consumer Credit Protection Act of 1968, 15 U.S.C. Section 1601-65 (1970)

\*\* The rationale is based primarily upon the Seventh Amendment right to Trial by Jury. For complete discussion see *Jhaje v OSHA*, S 19 F2d 1175, (1975).

take any other remedial steps which serves not only the interest of the individual involved but also the public interest. (Kugler v Romain, 58 N.J. 522, 279 A2d 640 (1971)).

Under a similar theory, state animal health agencies could be vested with similar statutory authority. While the interest here is primarily health related, a compelling interest to be protected is that related to protecting the consumer buyer. A dual beneficial purpose may be served. By increasing the rights and remedies available to the consumer buyer, a state agency not only deters sales of infected animals but also provides economic incentives for buyers to continue transacting business in the area.

The threshold issue is whether a broad statutory base can be relied upon in protecting consumer buyers in the cattle industry while maintaining constant surveillance on the flow of the market. States most assuredly would have to enact special enabling legislation that encompasses a broad administrative procedure. It is quite evident that states are interested in providing protection in this area. Aside from the varied animal health related rules and regulations, there is a growing body of law involving implied warranties and sales under the Uniform Commercial Code (U.C.C.) that lends weight to the notion that buyers should be protected from diseased animals.

While the scheme suggested is clearly not intended to provide for a conventional lawsuit, with all its trappings and delays, before an administrative tribunal, it does provide for an expeditious avenue to redress complaints. The U.C.C. Section 2-314 provides in part as follows:

"Unless excluded or modified (section 2-316) a warranty that the goods shall be merchantable is implied from a contract for their sale if the seller is a merchant with respect to the goods of that kind. \*\*\* (2) Goods to be merchantable must be at least such as \*\*\*\*\* (c) are fit for the ordinary purpose for which the goods are used."

It seems clear that, at least with the advent of the U.C.C., the old rule that there is no implied warranty of soundness in the sale of animals where the soundness is hidden, unknown to the seller, and difficult to discover is no longer in effect. In fact, the clear implication involving animals is that soundness is an element for any particular purpose and is implied under the U.C.C., Ruskamp v. Hog Builders, Inc., 192 Neb. 168, 219 N.W. 2d 750 (1974). The Iowa case of Reed v. Bunger, 225, Iowa 322, 122 N.W. 296 (1963), makes it certain that the older decisions in that state, applying the doctrine of caveat emptor to the purchase of cattle, are no longer in effect, and that there is an implied warranty of reasonable fitness of an animal notwithstanding the seller's lack of knowledge to comply with the warranty.



Another Iowa case, Ver Steegh v. Glaugh, 251 Iowa 1011, N.W. 2d 718 (1960), held that where a seller sells an animal for breeding purposes, knowing that the buyer is buying the animal for that purpose, there is an implied warranty of its reasonable fitness and that it is not infected with any disease which destroys the value for such purpose.

Again in Wyoming, the state Supreme Court held that an implied warranty is applicable to diseases in livestock and that the fact that the buyer's employee inspected the animals did not exclude an implied warranty on the part of the seller, where the disease would not have been apparent even to the trained veterinarian. S. Creek Ranch Inc., v. Monler and Co., \_\_\_ Wyo \_\_\_, 540 P2d. 777, 782, 784, (1973). The test for recovery, stated by some courts is that; "A warranty that an animal is sound implied the absence of any defect or disease which impairs or in its progress impairs the animal's natural usefulness for the purpose for which it is purchased, which defect must be existent at time of sale, and if breached by any defects which render it permanently less serviceable, as for example any disease although the defect may not fully be developed at the time of sale." Long v. Carpenter, 154 Neb 862, 50 N.W. 2d. 67, (1955).

The measure of damage for breach of warranty is the loss directly and naturally resulting in the ordinary course of events, from a breach in warranty. U.C.C. section 2-714 (2). In other words, it is the loss proximately resulting from the failure to deliver the goods as warranted. The burden of proof is upon the buyer, but a qualified and competent veterinarian may attest to the loss attributable to the proximate result of a disease affecting a herd at the time of deliver. W.W. Livestock Enterprises v. Dunbar, 1979 N.W. 484, 489 (1970).

The proceeding analysis raises three main issues: (1) the control and containment of brucellosis, (2) protection of the public from the disease and (3) providing relief to consumer buyers of infected cattle. Resolution of these issues suggests the implementation of an administrative procedures process. Through adoption of an administrative procedures act similar to the Model State Administrative Procedures Act, state governments may quickly move to bring about desired changes.

Specifically, a model administrative procedures act would contain four major elements: (1) it would provide for the availability of an agency to issue cease and desist orders preventing further sales of animals by sellers found to have sold infected cattle, (2) the act would allow for a rapid fact finding adjudicatory process which would determine the extent of liability and who bears the loss; (3) the act would encourage by its standing requirements, early examination and testing, and finally (4) would allow for judicial review of the agency's findings and final orders.

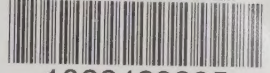
#### Rationale

Traditionally consumer buyer protection and compensation for

herd subject to annual blood tests, 13 months following the last annual blood test, the health authority shall notify the herd owner or operator of the necessity to comply with the brucellosis requirements. The failure of the herd owner or operator to comply with the brucellosis requirements within 30 days of written notice shall result in immediate suspension of the permit."



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